

COLORADO STATE BOARD OF PHARMACY
April 21, 2011

Minutes

The Colorado State Board of Pharmacy meeting was convened by President Jeannine Dickerhofe, R.Ph., at approximately 8:30 a.m. on Thursday, April 21, 2011 at 1560 Broadway, Conference Room 110 D, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Mary K. Arceneaux, R.Ph.; Jeannine Dickerhofe, R.Ph.; E. Katherine Edelblut, R.Ph.; Leonard L. Hierath, P.E.; Paul Limberis, R.Ph.; Luis A. Rivera-Lleras, R.Ph.; and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Susan Martin, R.Ph., Inspector; Chris Gassen, R.Ph., Chief Inspector; Mark O'Neill, R.Ph., Inspector; Lisa Cornett, R.Ph., Inspector; and Linda Acosta, Complaint and Licensing Specialist. Also present was Jo Kaye, Assistant Attorney General, to advise the Board.

APPROVAL OF MINUTES

The Board approved the minutes from the February 17, 2011 and April 6, 2011 meetings.

APPEARANCES

Dr. Lori A. Crane, Ph.D., M.P.H., from the Colorado School of Public Health, presented to the Board the results of an evaluation and survey of the Pharmacy Peer Health Assistance Diversion Program.

Josh Bolin, Director of the National Association of Boards of Pharmacy Government Affairs Department, was unable to appear before the Board as originally scheduled.

ADDITIONS TO THE AGENDA

None.

HEARINGS

The Board conducted a public hearing concerning additions or amendments to Rules 1.00.00, 2.00.00, 3.00.00, 5.00.00, 11.00.00, and 15.00.00 (3 CCR, 719-1). The hearing began at 9:30 a.m. and was held in Conference Room 110 D at 1560 Broadway, Denver, Colorado 80202. The Board discussed the proposed changes to the rules, then adopted Rule 1.00.00 as proposed, 2.00.00 as amended, 3.00.00 as proposed, 5.00.00 as amended, 11.00.00 as proposed, and 15.00.00 as proposed.

REPORTS

President's Remarks

Ms. Dickerhofe announced that Peer Assistance Services held a fundraiser on April 15, 2011.

Program Director's Report

Ms. Anderson presented Board Policy 20-1 (Reinstatement of Expired Licenses), as currently in effect, and requested the Board's guidance on amendments to this policy for addressing the reinstatement of expired registrations. The Board directed its staff to make proposed amendments to this policy and to present these amendments for review at a future Board meeting.

Ms. Anderson presented proposed amendments to the following Board policies: 10-1 (Protocols for Complaints); 10-7 (Cases Dismissed with Letters of Concern); 30-5 (Unregistered/Unlicensed Activity); 30-6 (In-State Prescription Drug Wholesaler Designated Representative Changes); 30-7 (Prescription Drug Monitoring Program – New Pharmacies that Fail to Register and Submit Data); 30-8 (Prescription Drug Monitoring Program – Pharmacies that Fail to Submit Required Data to the Prescription Drug Monitoring Program); 30-9 (In-State Prescription Drug Outlet Pharmacist Manager Changes); 30-10 (Issuance of Licenses or Registrations to Facilities with Prior Cease and Desist Orders); 30-12 (Nonresident Prescription Drug Outlet Pharmacist Manager Changes); and 30-13 (Out-of-State Prescription Drug Wholesaler Designated Representative Changes). The Board approved of the amendments to each of the above Board policies proposed.

Ms. Anderson also requested input from the Board regarding potential items to be addressed on a future Board newsletter for licensees and registrants. Various Board members and staff agreed to provide her with newsletter items by June 1, 2011.

Colorado Pharmacists Society (CPS) – Paul Limberis, RPh

The CPS Annual Summer Meeting will be held on June 9-11, 2011, in Estes Park, Colorado, where 10 hours of continuing education will be offered.

The American Society of Health-System Pharmacists Annual Summer Meeting will be held on June 12-15, 2011, at the Convention Center in downtown Denver, and it will provide an excellent opportunity for continuing education and networking.

CPS once again partnered with the 9 Health Fair in April, 2011 and helped Fair organizers get pharmacist volunteers for designated sites throughout Colorado.

Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh

No report was provided at this meeting. The next meeting of the GEEERC is planned for Thursday, May 12, 2011.

Intern & School Relations – Jeannine Dickerhofe, RPh

Dr. Catherine Jarvis, Assistant Dean of the University of Colorado Denver School of Pharmacy, reported that the school itself is in the process of completing its physical move into its new facilities. She stated that 127 students will be graduating from the school in 2011. Dr. Jarvis further reported that the school is currently undergoing a revision to its curriculum for implementation in the fall of 2012.

Dr. Marianne McCollum, Interim Dean of the Regis University School of Pharmacy, reported that 75 students will enroll for the Class of 2015. Dr. McCollum also reported that the school is still actively interviewing for a new dean as well as for nine additional faculty members.

Legislation - Jeannine Dickerhofe, RPh

Jeannine Dickerhofe reported on the progress of the following bills for the 2011 Legislative Session:

- Senate Bill 11-192 – Prescription Drug Monitoring Program Sunset (Reintroduced);
- Senate Bill 11-088 – Midwives Sunset;
- Senate Bill 11-196 – Pseudoephedrine a Schedule III Controlled Substance
- House Bill 11-1143 – Off Label Use of Prescription Drugs;
- Senate Bill 11-043 – Safe Collection and Proper Disposal of Home-Regulated Sharps Disposal Containers.

Inspectors

Board Rule 3.01.10(b) & Contractual Affiliation

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to table further consideration of this matter for review at a future meeting pending receipt of research regarding how other states have addressed the topic.

Governski, Robert A., RPH 14225

Mary Arceneaux recused.

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for discipline.

Medical Foods

The Board reviewed an Agenda Memorandum from Ms. Martin and determined that no action is needed.

Walgreen Pharmacy #1769 (PDO 243), Agatha Nwagwu (RPH 15187), and Michael Overholt (Unlicensed)

The Board reviewed an Agenda Memorandum from Ms. Martin and voted unanimously to refer the matters to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to table further review of Walgreen Pharmacy # 1769 pending receipt of information relating to another active case involving this pharmacy. Additionally, the Board voted unanimously to issue a Letter of Admonition to Ms. Nwagwu for violations of the Pharmaceuticals and Pharmacists Act, and to issue Mr. Overholt a Cease and Desist Order for the unlicensed practice of pharmacy.

OLD BUSINESS

Complaints

Governski, Robert A., RPH 14225 & Case 2011-1334

Mary Arceneaux recused.

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for discipline.

Stipulations

Bloom, Michelle J., RPH 16464 & Case 2010-2529

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to send correspondence to Peer Assistance Services (PAS) directing that it contact Ms. Bloom and have her enter into a contract with the Pharmacy Peer Health Assistance Diversion Program.

Diabetic Care Rx, OSP 5736 & Case 2011-0076

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for discipline.

Fallik, Aaron, RPH 17129 & Case 2008-2246

The Board reviewed an Agenda Memorandum from Ms. Acosta and voted unanimously to approve of Mr. Fallik's release from the terms of his Rehabilitation Contract with Peer Assistance Services and for Mr. Fallik to continue to serve the remaining terms of his Stipulation and Final Agency Order with the Board.

Padilla, Byron J., RPH 16516 & Case 2008-1473

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding Mr. Padilla's request for clarification of his Stipulation and Final Agency Order with the Board.

After due consideration of the available information, the Board voted unanimously to allow Mr. Padilla to work from home for his probation to toll so long as he is supervised by a Colorado-licensed pharmacist.

Torkilson, Edward A., RPH 16898 & Case 2011-2064

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for discipline.

Zanjani, Farideh S. RPH 13559 & Case 2010-3835

Jeannine Dickerhofe recused.

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding Ms. Zanjani's request to modify a term of her Stipulation and Final Agency Order with the Board.

After due consideration of the available information, the Board voted unanimously to extend the period of time for Ms. Zanjani to successfully complete and pass the Professional and Problem Based Ethics Course to June 1, 2012.

Miscellaneous

King Soopers Pharmacy # 21

Mary Arceneaux recused.

The Board reviewed an Agenda Memorandum from Mr. O'Neill regarding the measures King Soopers Pharmacy # 21 has taken to address past security issues with its compounding/dispensing area.

The Board noted the information.

Quantity of Drugs in Emergency Kits & Proposed Amendments to Board Rule 10.00.00

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to table further consideration of this matter for a future meeting pending receipt of research regarding how other states have addressed the topic.

Request to Amend Board Rule 3.01.10(b)

The Board reviewed an Agenda Memorandum from Mr. Gassen and voted unanimously to table further consideration of this topic for a future meeting pending receipt of a proposed Board policy that addresses the topic.

NEW BUSINESS

Complaints

AmeriPharm, Inc. dba MedVantx Pharmacy Services, OSP 5525 2011-3141

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Bio-Medical Resources, Inc., WHI 6071 **2011-2972**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

CJ Pharmacy II, PDO 807 **2011-2747**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Lorenzo-Lock, Jenae, RPH 15292 **2011-2748**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Colorado Pharmacy, PDO 302 **2011-2655**
The Board voted unanimously to dismiss this case as being without merit.

Ellis, Eric, RPH 15211 **2011-2400**
Paul Limberis recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Garcia, Orlando R., IN 2004306 **2011-2950**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Ghasemi, Seyed H., RPH 14265 **2011-2623**
The Board voted unanimously to dismiss this case as being without merit.

Hopkins, Wesley D. II, RPH 15749 **2011-2943**
The Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Kellow III, Kenneth N., RPH 18508 **2011-2831**
The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Kith, Leanna C., RPH 15254 **2011-1658**
Mary Arceneaux and Paul Limberis recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss this case as being without merit.

Kubat Health Care, Inc., OSP 5802 **2011-3072**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Longo, Anthony, RPH 14522 **2011-2611**

The Board voted unanimously to table further consideration of this case pending receipt of additional information.

McCanless, Jason M., RPH 15334 **2011-2966**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

McKesson Corporation, WHI 6034 **2011-3193**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Peterson, Kenneth, RPH 12260 **2011-2669**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Rite Aid #6367, PDO 53-54 **2011-2761**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Safeway Pharmacy #1249, PDO 79-24 **2011-2688**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Safeway Pharmacy # 1045, PDO 45-10 **2011-2958**

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Lager, Benjamin K., RPH 14397

2011-2953

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

Wal-Mart Pharmacy #10-1659, PDO 11-10

2011-2760

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Westcare, Inc, PDO 37-30

2011-3094

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

Williams, Thomas H., RPH 11833

2011-3107

Mary Arceneaux recused.

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the case. The Board, however, directed its staff to send Mr. Williams a letter of guidance advising him to obtain proof of completion of all required training, and post this proof of completion at his main practice site prior to resuming the administration of immunizations.

Witmer, Brian, IN 2004482

2011-2969

The Board voted unanimously to refer the case to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act.

LICENSING/REGISTRATION

Chinook Healthcare, Inc., WHI applicant

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding an application submitted by Chinook Healthcare, Inc. for an in-state prescription drug wholesaler registration and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for legal advise.

After Executive Session, the Board voted unanimously to dismiss the matter. The Board found that there was no reasonable cause to warrant further action at this time. The Board also voted unanimously to issue Chinook Healthcare, Inc. an in-state prescription drug wholesaler registration under the structural space conditions originally proposed by the applicant.

Frisk, Kit C., Pharmacy Intern Applicant

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding an application submitted by Ms. Frisk for a pharmacy intern license and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to deny the application and refer the matter for discipline. Grounds for denial were noted to include, but were not limited to, CRS 12-22-125(1)(c), (d) and (k).

Medina, Joseph J., Pharmacy Intern Applicant

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding an application submitted by Mr. Medina for a pharmacy intern license and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to table further consideration of the application pending receipt of an evaluation of Mr. Medina by Peer Assistance Services for the Board's review during the normal course of its business.

Hall, Colton P., Pharmacist Applicant

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding an application submitted by Mr. Hall for a pharmacist license.

After careful consideration of the available information, the Board voted unanimously to issue Mr. Hall a pharmacist license.

Murray, John D., Pharmacist Applicant

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding an application submitted by Mr. Murray for a pharmacist license by endorsement and, after due consideration of the available information, voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to table further consideration of the application pending receipt of an evaluation of Mr. Murray by Peer Assistance Services for the Board's review during the normal course of its business.

Otis, Stephen M., Pharmacist Applicant

The Board reviewed an Agenda Memorandum from Ms. Acosta regarding an application submitted by Mr. Otis for a pharmacist license by endorsement.

After careful consideration of the available information, the Board determined that Mr. Otis does not meet the requirements of pharmacist licensure by endorsement pursuant to Board Rule 4.01.00.

MISCELLANEOUS

Correspondence, etc.

Anonymous Complaint

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding an anonymous complaint pertaining to alleged activities by an unlicensed person employed by the Walgreen Company.

After due consideration of the available information, the Board voted unanimously to refer the anonymous complaint to the Walgreen Company for its review.

Drug Enforcement Administration's Second National Pharmaceutical Drug Take Back Event -- Saturday, April 30, 2011, 10 am- 2 pm

The Board noted the information.

Forensic Laboratories

The Board reviewed a request from Forensic Laboratories to obtain information from the Electronic Prescription Drug Monitoring Program (PDMP).

After careful consideration of the available information, the Board voted unanimously to enter into a PDMP contract with Forensic Laboratories.

Guidance for Industry - Medication Guides-Distribution Requirements and Inclusion in Risk Evaluation and Mitigations Strategies (REMS)

The Board noted the information.

Medco Health Solutions of Las Vegas, L.L.C., OSP 5021

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding Medco Health Solutions of Las Vegas, L.L.C and noted the information.

National Association of Boards of Pharmacy Launches Continuing Pharmacy Education Monitor Service

The Board noted the information.

National Association of Chain Drug Stores (NACDS) and E-Prescribing of Controlled Substances

The Board reviewed NACDS' interpretation of the Colorado Revised Statutes and its application to the Drug Enforcement Administration's June 1, 2010 Interim Final Rule addressing the e-prescribing of controlled substances and voted unanimously to refer the matter to Executive Session for legal advice.

After Executive Session, the Board voted unanimously to send NACDS correspondence stating that NACDS' interpretation of Colorado law is correct.

Pharmacies under Common Ownership & Drug Distribution

At the request of the correspondent, this item was removed from the agenda.

Prime Therapeutics, LLC, Irving, TX, OSP 5588 & Prime Therapeutics, LLC, Albuquerque, NM, OSP 5694

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding the nonresident prescription drug outlet registrations of Prime Therapeutics, LLC in Texas and New Mexico, and voted unanimously to refer the matters to Executive Session for discussion of possible disciplinary action.

After Executive Session, the Board voted unanimously to dismiss the matters. The Board found that there was no reasonable cause to warrant further action at this time.

Sandra K. Hartwig, RPH 12603

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding Ms. Hartwig's pharmacist license in another state and voted unanimously to not take action regarding the information.

Venditio, LLC, Unregistered

The Board reviewed a complaint regarding Venditio, LLC and an Agenda Memorandum from Mr. Gassen.

After careful consideration of the available information, the Board voted unanimously to not take action regarding the matter and to respond to the complainant with this decision.

EXECUTIVE SESSION

At 12:41 p.m., Board President Jeannine Dickerhofe moved that the Board enter into Executive Session.

The motion was seconded. The vote was unanimous with six votes approving the motion to go into Executive Session and none opposing.

The Board exited Executive Session at 3:45 p.m.

Open Session

Case 2011-0701

Mary Arceneaux recused.

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Case 2011-3011

The Board voted unanimously to dismiss this case as being without merit.

Case 2011-3023

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Case 2011-3091

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

ADJOURNMENT

The Board adjourned at 3:55 p.m.

Approved by Jeannine Dickerhofe, R.Ph., President Date: May 19, 2011.